S.B.CIVIL WRIT PETITION NO.6452/2005

Smt. Ramila Devi
v.
State of Rajasthan & Ors.

Date of Order :: 20th August, 2007

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. Dinesh Mehta, for the petitioner.
Mr. Anil Bhansali, for the respondents.

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By this petition for writ a challenge is given to the order dated 27.9.2005 passed by the Commercial Taxes Officer, Anti Evasion, Dungarpur while exercising powers under Section 78(10) of the Rajasthan Sales Tax Act, 1994 (hereinafter referred to as "the Act of 1994") to confiscate vehicle No.RJ-03/G/1341.

The order passed under Section 78(10) of the Act of 1994 is appealable under Section 84 of the said Act. The petitioner has not availed the remedy referred above on the count that the order impugned was passed after getting approval from the Deputy Commissioner (Administration) who is an authority with an equivalent status to the appellate authority.

It is true that the appeal against the order impugned is to be adjudicated by Deputy Commissioner (Appeals) who is an authority with equivalent status

to the Deputy Commissioner (Administration) but it does not mean that he will not decide the appeal objectively as the impugned order is having an approval from Deputy Commissioner (Administration). The Deputy Commissioner (Appeals) discharges quasi judicial powers and there is no reason to presume that those powers shall be effected in any manner merely on the ground that the order impugned is having an approval from the Deputy Commissioner (Administration).

I do not find any just reason to entertain this petition for writ under Article 226 of the Constitution of India by ignoring the statutory remedy as provided under Section 84 of the Act of 1994.

Accordingly, this petition for writ is dismissed. The petitioner may avail alternative remedy available to him under the Act of 1994. If the petitioner prefers appeal as per Section 84 of the Act of 1994 within a period of one month from today, the appellate authority shall consider case of the petitioner sympathetically for condonation of delay in filing the appeal.

(GOVIND MATHUR),J.

Kkm/ps.